



2250 East Germann Road, Suite 10
 Chandler, Arizona 85286
 (480) 739-1200

4 Robert Grasso, Jr., Bar No. 015087
 5 Pari K. Scroggin, Bar No. 015288
 6 Pamela L. Judd, Bar No. 022109
rgrasso@grassolawfirm.com
pscroggin@grassolawfirm.com
pjudd@grassolawfirm.com

7 Attorneys for Defendants Southwest
 8 Human Development and Gwyneth Kelly

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF ARIZONA**

11 Jessica Kahraman, an individual; D.K., a minor,
 12 through his parent and guardian Jessica Kahraman;
 13 and K.K., a minor, through his parent and guardian
 Jessica Kahraman,

Case No. 2:22-cv-00375-SRB

14 Plaintiffs,
 15
 16 vs.

**DEFENDANT SOUTHWEST
 HUMAN DEVELOPMENT'S
 MOTION FOR JUDGMENT
 ON THE PLEADINGS**

17 The State of Arizona, a governmental entity; Arizona
 18 Department of Child Safety ("DCS"), a governmental
 19 entity; Sarah Kramer, individually and as an employee
 20 with DCS, and John Doe Kramer, her spouse; Sarah
 21 Mendez, individually and as an employee with DCS,
 22 and John Doe Mendez, her spouse; Madison Bell,
 23 individually and as an employee with DCS, and John
 24 Doe Bell, her spouse; Mecca Temple, individually and
 25 as an employee with DCS, and John Doe Temple, her
 26 spouse; Gregory McKay, individually and as an
 27 employee with the State of Arizona as the former
 Director of DCS, and Jane Doe McKay, his spouse;
 Michael Faust, individually and as an employee with
 the State of Arizona as the current Director of DCS,
 and Jane Doe Faust, his spouse; Banner Children's at
 Desert, formerly Cardon Children Medical Center
 ("Banner"), an Arizona nonprofit organization; Ryan
 M. Stewart, M.D., individually and as an employee
 with Banner, and Jane Doe Stewart, his spouse; Maria

1 Chico, individually and as an employee with Banner,
 2 and John Doe Chico, her spouse; Southwest Human
 3 Development (“SWHD”), an Arizona nonprofit
 4 organization, individually and as a service provider
 5 for the State of Arizona; Drue Kaplan-Siekman,
 6 individually and as an employee with SWHD, and
 7 John Doe Siekman, her spouse; Gwyneth Kelly,
 8 individually and as an employee with SWHD, and
 9 John Kelly, her spouse; Michael Kelly, M.D. an
 10 individual, and Jane Doe Kelly, his spouse; John and
 11 Jane Does 1-5; and Black Entities 1-5,

12
 13 Defendants.

14 Pursuant to Federal Rule of Civil Procedure 12(c), Defendant Southwest Human
 15 Development (“SWHD”) hereby moves for judgment on the pleadings on the sole claim
 16 asserted in Plaintiffs’ Second Amended Complaint (“SAC”) (Doc. 74) against SWHD. The
 17 only claim asserted against SWHD is Count Fifteen - negligent hiring and training.
 18 However, the SAC fails to state any allegations in support of this claim. Therefore, SWHD
 19 is entitled to judgment on the pleadings.

20 This motion is supported by the following Memorandum of Points and Authorities,
 21 as well as the entire records in this matter. Pursuant to Local Rule 12.1(c), prior to filing
 22 this motion undersigned counsel certifies she notified counsel for Plaintiffs of the issues
 23 asserted in this motion and the parties were unable to agree that the SAC was curable by a
 24 permissible amendment.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. Factual background.**

27 In this lawsuit, Plaintiffs Jessica Kahraman (“Mother”), D.K. and K.K. (collectively
 28 “Minor Children”) assert claims against numerous Defendants related to the removal of the
 29 Minor Children from Mother’s custody by the Arizona Department of Child Safety
 30 (“DCS”) and the dependency proceedings that followed. (*See generally* Doc. 74). The
 31 Minor Children were removed from Mother’s custody by DCS on December 28, 2018.
 32 (Doc. 74 at ¶ 71). Defendant Southwest Human Development, Inc. (“SWHD”) facilitated
 33 and supervised therapeutic visitations between Mother and the Minor Children from

1 February 2019 through November 2020. (Doc. 74 at ¶¶ 18, 76, 79-80). On November 9,
 2 2020, the dependency proceedings were terminated, thereby concluding DCS's
 3 involvement, as well as the services SWHD provided to Plaintiffs. (Doc. 74 at ¶ 144).

4 The only claim asserted against SWHD is for negligent hiring and training of
 5 SWHD "employees, officers, and agents." (Doc. 74 at ¶¶ 283-284). The SAC contains no
 6 allegations relating to SWHD's hiring or training processes, much less how any such
 7 processes were allegedly deficient. The SAC does not allege how any such elusive
 8 deficiencies contributed to the underlying events or any harm to Plaintiffs nor even which
 9 employee, officer, or agent of SWHD was allegedly negligently hired or trained.

10 This case has been pending since November 16, 2021. Plaintiffs have filed two
 11 amended complaints, yet Plaintiffs still fail to include any allegations to support a negligent
 12 hiring or training claim against SWHD.

13 **II. SWHD is entitled to judgment on the pleadings.**

14 Federal Rule of Civil Procedure 8(a)(2) requires a complaint to state "a short and
 15 plain statement of the claim showing that the pleader is entitled to relief." "[A] plaintiff's
 16 obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than
 17 labels and conclusions, and a formulaic recitation of the elements of a cause of action will
 18 not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Rather, "[f]actual
 19 allegations must be enough to raise a right to relief above the speculative level." *Id.*

20 Here, the SAC fails to state any facts or allegations in support of Plaintiffs' claim
 21 that SWHD was negligent in its hiring or training processes. The SAC contains no
 22 allegations relating to SWHD's hiring or training processes, any purported deficiencies
 23 with such processes, how any purported hiring or training deficiencies contributed to the
 24 underlying events or any harm to Plaintiffs nor even which employee, officer, or agent of
 25 SWHD was allegedly negligently hired or trained. Quite simply, Plaintiffs utterly fail to
 26 satisfy Rule 8 pleading requirements to provide SWHD "fair notice" of the claim asserted
 27 against it.

28 //

1 **III. Conclusion.**

2 Based on Plaintiffs' failure to state any allegations in support of their negligent
3 hiring and training claim against SWHD (Count Fifteen), judgment on the pleadings must
4 be entered in favor of SWHD. Since this is the only claim asserted against SWHD, SWHD
5 must be dismissed as a defendant in this case.

6 RESPECTFULLY SUBMITTED this 15th day of November 2023.

7 **GRASSO LAW FIRM, P.C.**

9 By /s/ Pamela L. Judd _____
10 Robert Grasso, Jr.
11 Pari K. Scroggin
12 Pamela L. Judd
13 2250 East Germann Road, Suite 10
14 Chandler, Arizona 85286
15 Attorneys for Defendants Southwest Human
16 Development and Gwyneth Kelly